

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15540
[Redacted])	
Petitioner.)	DECISION
)	
)	

On February 7, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1995 through 1998 in the total amount of \$57,141.

On April 4, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer received miscellaneous income from an Idaho company. The Bureau reviewed the Tax Commission's records and found that the taxpayer had not filed Idaho individual income tax returns for the tax years 1995 through 1998. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho income tax returns. The taxpayer did not respond.

[Redacted] Based upon the information obtained, the Bureau prepared returns for the taxpayer based upon the information obtained and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer contacted the Bureau and asked for the information used to determine his Idaho tax. The Bureau sent the taxpayer the information he requested. The taxpayer subsequently protested the Notice of Deficiency Determination stating that he disagreed with the tax owed and that he would prepare actual returns to submit to the Tax Commission.

The Bureau allowed the taxpayer additional time to provide the necessary returns; however, no returns were received. Seeing no progress, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer contacted the Tax Commission and restated his desire to submit actual returns.

After several months of working with his accountants, the taxpayer had returns to submit to the Tax Commission. The taxpayer submitted the returns and the Tax Commission reviewed them. The Tax Commission found the taxpayer's returns to be a better representation of the taxpayer's taxable income than the returns the Bureau prepared. Therefore, the Tax Commission accepted the taxpayer's returns, subject to the normal review processes of the Tax Commission, in lieu of the returns prepared by the Bureau.

While looking at the taxpayer's returns, the Tax Commission did notice that the taxpayer did not include the credit provided for in Idaho Code section 63-3024A, commonly called the grocery credit. Therefore, the Tax Commission adjusted the taxpayer's returns to include the proper amount of credit for the returns he submitted.

With the addition of the grocery credit to the taxpayer's returns, the 1995, 1996, and 1998 returns resulted in refunds to the taxpayer. However, Idaho Code section 63-3024A(g) states that an application for refund of the grocery credit must be filed with the Tax Commission within three years of the due date of the return. The Tax Commission received the taxpayer's returns on July 15, 2002. The latest return, 1998, had a due date of April 15, 1999. Since the taxpayer's returns were received well past the due dates of the returns, the Tax Commission cannot allow the refunds to the taxpayer.

The taxpayer's 1997 return resulted in tax owed to the state of Idaho. The taxpayer added penalty and interest to the tax he calculated. However, due to the grocery credit adjustment, the Tax Commission recalculated both the penalty and interest.

WHEREFORE, the Notice of Deficiency Determination dated February 7, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 0	\$ 0	\$ 0	\$ 0
1996	0	0	0	0
1997	22	10	7	39
1998	0	0	0	<u>0</u>
			TOTAL DUE	\$ 39
		AMOUNT	REMITTED	<u>150</u>
		BALANCE	REFUNDED	<u>\$111</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
[Redacted]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1